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REMARKS

Applicant appreciates the telephonic interview and thorough review of the present application. The Official Action rejects Claims 1-3, 7-9, 23-24, 27-29, 31, 32, and 34 under 35 U.S.C. § 101 as lacking patentable utility. In addition, Claims 1-9 and 23-34 are rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,631,356 to Van Horn et al. ("Van Horn").

As explained more fully below, the pending claims of the present application are patentably distinguishable from the cited reference. Independent Claims 1, 2, 29, and 32 have been amended to clarify their utility. In light of the amendments and subsequent remarks, Applicant respectfully requests reconsideration and allowance of the claims.

A. The Rejection under 35 U.S.C. § 101 is Overcome

In paragraph 4, the Official Action alleges that Claims 1-3, 7-9, 23, 24, 27-29, 31, 32, and 34 lack patentable utility. The Examiner states that "[a] data processing system may be no more than a person using his mental faculties in combination with pen/pencil and paper." In addition, the Examiner rejects Claims 7-9, 27, 28, 31, and 34, which are each directed to a computer-readable medium.

Applicant submits that although the term "data processing system" is unambiguous, a data processing system, as known to those of ordinary skill in the art, corresponds to the processing of data in a form recognizable by a system, such as a computer. For example, Webster's Dictionary defines "data processing" to include preparation of information for computer processing, as well as the storage or processing of raw data by a computer. Similarly, the American Heritage® Dictionary defines "data processing" to include the conversion of data into a form that can be processed by a computer, and the storing or processing of data by a computer.

Moreover, the specification of the present application discloses a client-server system interconnected through a network. Each of the client and server systems includes computers having conventional components, such as a processor, memory, bus, a mass storage device, I/O controller, and a network interface. Thus, the data processing system could be one or more

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components of a conventional client-server system that is capable of performing the steps recited in independent Claims 1, 2, 29 and 32.

Although Applicant submits that the ordinary usage of the term "data processing system" and specification of the present application indicate that the claims are within the technological arts and recite patentable utility, independent Claims 1, 2, 29, and 32 have been amended to recite electronically aggregating information reflecting demand for an item in order to expedite prosecution. As such, electronically aggregating information is clearly within the technological arts and is distinguishable from a person using his mental faculties in combination with pen/pencil and paper.

Moreover, Applicant submits that Claims 7-9, 23, 24, 27, 28, and 31, which recite computer-readable mediums, are also patentable under 35 U.S.C. §101. Independent Claims 7, 8, 31, and 34 recite "[a] computer readable medium containing instructions for controlling a computer system to perform a method of aggregating and satisfying demands from different users for at least one item." As disclosed in the specification of the present application, aspects of the present invention could be stored in a memory device or other types of computer-readable media, such as secondary storage devices, like hard disks, floppy disks, or CD-ROM; a carrier wave from the Internet or other propagation medium; or other forms of RAM or ROM" (page 19, line 18 – page 20, line 3). Thus, the computer-readable medium of Claims 7-9, 23, 24, 27, 28, and 31 could be various media for storing instructions to control a computer system. Consequently, Applicant submits that the preamble of each of independent Claims 7, 8, 31, and 34 and the specification of the present application clearly recite patentable utility, as the instructions that direct the steps recited by each of the claims are required to be stored on computer-readable media for controlling a computer system.

Therefore, Applicant submits that in light of the amendments to 1-3, 29, and 32, as well as the foregoing remarks with respect to Claims 7-9, 23, 24, 27, 28, and 31, pending Claims 1-3, 7-9, 23-24, 27-29, 31, 32, and 34 recite patentable utility, and the rejection under §101 is overcome.

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B. The Rejection of Independent Claims 1-2, 4-5, and 7-8 under 35 U.S.C. § 102(a) is Overcome

Van Horn discloses demand aggregation through online buying groups where "co-ops" are formed for purchasing a particular product. Server software is configured to define a co-op by specifying the product, a time interval during which buyers may join the co-op, the point at which critical mass is reached, any minimum or maximum quantity of the product available, and one or more price curves for the featured product. The server software is further configured to accept inputs from each buyer in the form of binding purchase offers to purchase the product. Buyers typically enter a maximum price that they are willing to commit to purchase, which may be the current price of the product or a lower price. The price set by the seller is not static and may be lowered if a number of offers are received that are less than, but within a reasonable range of, the current price. Buyers may submit a further contingency based on price, wherein buyers may indicate that they do not find the current price acceptable but wish to buy the product at a lower price such that a buyer's offer is made contingent on the co-op reaching the lower price. However, offers may not be cancelled or reduced. Once critical mass is reached or the time limit expires, all offers at or above the closing price are accepted and final sales information is communicated to the buyers. Even in the instance in which the buyer's offer is contingent upon the co-op reaching the lower price, the buyer's offer is binding, and no longer contingent, once the co-op reaches the lower price.

Independent Claims 1-2, 4-5, and 7-8 recite methods, systems, and computer-readable mediums, respectively, that include aggregating and satisfying demand for items or travel products. For example, independent Claims 1-2, 4-5, and 7-8 recite that the information for each different user is aggregated independent of a commitment by the different users to purchase the items or travel products, and the different users can determine whether to commit to purchasing an item or travel product even after submitting a request for an item or travel product. Thus, independent Claims 1-2, 4-5, and 7-8 do not require users to commit to purchase an item or travel product when aggregating information based on the users' requests for the items or travel products. Users are capable of reviewing items or travel products before committing to

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purchase. If a user is interested in purchasing an item or travel product, the user may submit a commitment to purchase, which could take the form of an unsecured reservation or a purchase using a credit card or other payment method.

Applicant respectfully submits that the rejection of independent Claims 1-2, 4-5, and 7-8 overlooks an important element of the claims, namely the recitation that aggregation of information reflecting demand for items from different users is "independent of a commitment by the different users to purchase the item" and that "the different users can determine whether to commit to purchasing the item." Van Horn specifically discloses that buyers submit binding offers that may not be cancelled and are irrevocable (see abstract; col. 1, lines 34-37; col. 4, lines 62-63; col. 6, lines 30-36; col. 7, lines 32-34; col. 9, lines 5-6; col. 12, lines 11-12; and col. 15, lines 41-47). For example, Van Horn discloses:

Offer or Purchase Offer: A binding, non-cancelable offer to purchase a featured product within a price range the maximum of which is specified by the buyer. Each such offer is guaranteed by the respective buyer's credit card at the time it is offered. Making an offer is a condition precedent to joining a co-op. The offer is either accepted or rejected at the close of the co-op. Col. 6, lines 30-36.

In contrast, independent Claims 1-2, 4-5, and 7-8 recite that information is aggregated independent of a commitment to purchase and that users can determine whether to commit to purchase an item or travel product. The Examiner states that Van Horn discloses "that the user may commit to purchase the product of interest 114, but need not do so." Applicant finds no support for this statement within Van Horn, as a buyer is bound once critical mass is reached or a time limit expires. In other words, once a buyer submits an offer, the offer is binding and irrevocable. Even if the buyer submits an offer at a lower price than the current price, the offer is accepted and the buyer is bound if and when the price of the product lowers to the price specified by the buyer (see col. 15, lines 40-47).

For the forgoing reasons Van Horn does not teach or suggest the methods, systems, and computer-readable mediums of independent Claims 1-2, 4-5, and 7-8, respectively. Since Claims 1-2, 4-5, and 7-8 are patentably distinct from Van Horn, the claims that depend therefrom are also patentably distinct from Van Horn for at least the same reasons. Consequently,

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Applicant submits that, for at least those reasons set forth above, the rejection of Claims 1-2, 4-5, and 7-8 under 35 U.S.C. 102(a) is therefore overcome.

C. *The Rejection of Independent Claims 29-31 under 35 U.S.C. § 102(a) is Overcome*

Independent Claims 29-31 recite that users are provided with at least two proposed responses and are able to evaluate the proposed responses. Applicant submits that this is not taught or suggested by Van Horn or any combination of the cited references. Specifically, as discussed above, Van Horn requires that the user be committed to purchase the item when the user submits an offer to join a co-op. As recited in Claims 29-31, the response includes a proposal for providing an item to different users, which is unlike Van Horn where the consumer has already committed to purchase a particular item such that a proposed response is unnecessary. Because the user submits a binding offer for a desired product, there is no teaching or suggestion within Van Horn to provide a proposed response to the user. Van Horn simply does not teach or suggest the ability to provide users with two separate results, as the user would not be committed to accept either result, which Van Horn expressly teaches away from. In addition, although Van Horn discloses that buyers are notified of either successful or unsuccessful offers, Van Horn does not disclose providing two proposed responses to each buyer so that a buyer may evaluate each response. Buyers have either succeeded in purchasing the product or they have not.

Therefore, Claims 29-31 are distinct from the cited references, and the rejection of Claims 29-31 under 35 U.S.C. 102(a) is overcome.

D. *The Rejection of Independent Claims 32-34 under 35 U.S.C. § 102(a) is Overcome*

Independent Claims 32-34 recite a method, system, and computer-readable medium, respectively, that attempt to get bids for an order independent of setting a maximum price and receive bids from suppliers, where the price set by the supplier for the item is independent of a maximum price set by the consumer or otherwise. The system of Claims 32-34 is advantageous in that it allows the consumer to check pricing for the request without having to first commit to a

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maximum price. For example, buyers may submit a request for travel for particular origin and destination locations and dates, and may receive proposed packages and associated prices. As such, the buyer is not required to input a maximum price or incrementally adjust a maximum price in order to determine a travel package that is acceptable to the buyer.

Applicant respectfully submits that Van Horn does not teach or suggest providing information to the suppliers independent of any predetermined maximum price for the items and providing a proposed response to the different users, where the users can determine whether to commit to purchasing the item based at least on the price set by the supplier, as recited by independent Claims 32-34. Thus, Claims 32-34 are distinguishable for at least those reasons discussed above with respect to independent Claims 1-2, 4-5, and 7-8, as Van Horn requires a commitment to purchase when submitting a purchase offer.

In addition, Van Horn does not teach or suggest that a proposed price for the items is set by the supplier and independent of any predetermined maximum price. Specifically, Van Horn requires that the consumer input a maximum price with an offer to purchase a product. Van Horn does not teach or suggest that the consumer can be entered into a co-op without specifying a maximum offer price. For example, Van Horn discloses that "all buyers wishing to join a co-op must submit a binding offer guaranteeing their willingness to purchase the featured item at or below some maximum price determined by each individual member" (col. 1, lines 34-37).

As such, Applicant respectfully submits that Claims 32-34 are distinguishable from the cited references, and the rejection under 35 U.S.C. 102(a) is therefore overcome.

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CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



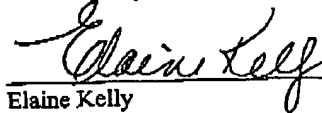
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